

**SEALED BY ORDER
OF COURT**

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
San Jose Venue**

FILED
JUN 18 2019
SUSAN Y SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

Petition for Arrest Warrant for Offender Under Supervision

Name of Offender
Daniel Victoria-Bentancourt

Docket Number
0971 5:07CR00340-001 RMW

Name of Sentencing Judge: The Honorable Ronald M. Whyte
Senior United States District Judge

Date of Original Sentence: October 1, 2007

Original Offense

Count One: Illegal Reentry Following Deportation, 8 U.S.C. § 1326, a Class C Felony.

Original Sentence: 60 months imprisonment followed by 3 years supervised release

Special Conditions: \$100 special assessment; comply with the rules and regulations of the Bureau of Immigration and Customs Enforcement; not own or possess any firearms, ammunition, destructive devices, or other dangerous weapons; DNA collection.

Prior Form(s) 12: None

This case is being assigned as a duty matter to The Honorable Jon S. Tigar

Type of Supervision
Supervised Release
Assistant U.S. Attorney
Benjamin Kennedy

Date Supervision Commenced
May 5, 2017
Defense Counsel
Nicholas Humy (AFPD)

Petitioning the Court for the issuance of a no bail warrant for the offender's arrest.

I, Elizabeth Hernandez-Robles, a Probation Officer employed in the United States District Court for the Northern District of California, solemnly affirm and declare, under penalty of perjury, that to the best of my information and belief, the facts set forth in this affidavit are true and correct. The factual affirmations made below are based on my personal knowledge, on official records or documents generated and maintained by my agency in the course of performing its functions, on official records or documents generated and maintained by other government agents or agencies in the course of performing their functions, or on information provided to me orally or electronically by employees or agents of other public agencies (information developed or acquired in the course of performing official agency functions).

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Charge Number

Violation

One

There is probable cause to believe that the offender violated mandatory condition which state he shall not commit another federal, state or local crime.

On August 10, 2018, a U.S. Border Patrol agent conducting a routine line watch duties within the Imperial Beach Border Patrol Station area of responsibility, located approximately one-half mile west of the San Ysidro Port of Entry, observed a male individual, later identified as Daniel Victoria-Bentancourt, walking inside the border river channel which is devoid of a border fence. As such, this area is often utilized for individuals to make an illegal entry into the United States. The agent instructed Mr. Victoria-Bentancourt to return back to Mexico, which he failed to do so and approached the agent.

Mr. Victoria-Bentancourt admitted to being a citizen and national of Mexico illegally present in the United States. He was detained at that time.

Evidence of this charge can be found in the Presentence Investigation Report for the Southern District of California Docket Number: 3:18CR03855-001 JAH.

Two

There is probable cause to believe that the offender violated mandatory condition which states, in part, he shall not unlawfully possess a controlled substance. He shall refrain from unlawful use of a controlled substance.

On August 10, 2018, while being interviewed in U.S. Border Patrol custody Mr. Victoria-Bentancourt informed agents that he was under the influence of drugs and alcohol and his answers may be impaired.

Evidence of this charge can be found in the Presentence Investigation Report for the Southern District of California Docket Number: 3:18CR03855-001 JAH.

Three

There is probable cause to believe that the offender violated special condition number one that states he shall comply with the rules and regulations of the Bureau of Immigration and Customs Enforcement and, if deported, not reenter the United States without the express consent of the Secretary of the Department of Homeland Security. Upon reentry into the United States during the period of court ordered supervision, he shall report to the nearest U.S. Probation Office within 72 hours.

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Daniel Victoria-Bentancourt, walking inside the border river channel which is devoid of a border fence. As such, this area is often utilized for individuals to make an illegal entry into the United States. The agent instructed Mr. Victoria-Bentancourt to return back to Mexico, which he failed to do so and approached the agent.

Mr. Victoria-Bentancourt admitted to being a citizen and national of Mexico illegally present in the United States. He was detained at that time.

Evidence of this charge can be found in the Presentence Investigation Report for the Southern District of California Docket Number: 3:18CR03855-001 JAH.

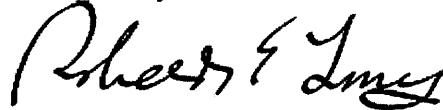
Based on the foregoing, there is probable cause to believe that Daniel Victoria-Bentancourt violated the conditions of his Probation. Therefore, I ask the Court to issue a no bail warrant for his arrest.

Respectfully submitted,



Elizabeth Hernandez-Robles
U.S. Probation Officer
Date Signed: June 17, 2019

Reviewed by:



Robert Tenney
Supervisory U.S. Probation Officer

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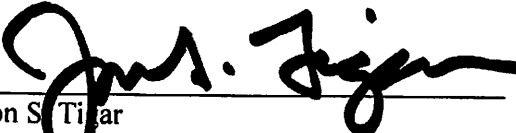
Having considered the information set forth above, the court finds there is probable cause to believe there has been a violation of the conditions of supervision and orders:

☒ The issuance of a no bail warrant AND ORDER THAT THIS FORM BE FILED UNDER SEAL, AND NO PUBLIC RECORD OF WARRANT ISSUANCE BE MADE, UNTIL EXECUTED WARRANT IS RETURNED FROM THE U.S. MARSHAL. THE FORM 12 WILL BE AUTOMATICALLY UNSEALED AND BE PART OF THE PUBLIC RECORD UPON ITS EXECUTION.

☐ Other:

June 17, 2019

Date



Jon S. Tigar
United States District Judge

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APPENDIX

Grade of Violations: B

Criminal History at time of sentencing: VI

	Statutory Provisions	Guideline Provisions
Custody:	2 years (underlying offense is a Class C Felony) 18 U.S.C. § 3583(e)(3)	21-27 months USSG §7B1.4(a)
Supervised Release:	3 years less any term of imprisonment imposed 18 U.S.C. § 3583(h)	3 years less any term of imprisonment imposed USSG §7B1.3(g)(2)
Probation:	Not Applicable	Not Applicable